C.J's Court

IN THE COURT OF HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 1886 (M/B) 2001

(Old No. 32064 of 1990)

1. Dewan Singh Mahar S/o Sri Mohan Singh Mahar,]
2. Surendra Singh Mahar S/o Sri Moti Singh Mahar,]
3. Trilok Singh Mahar S/o Sri Dewan Singh Mahar,]
4. Rajendra Singh Mahar S/o Sri Hayat Singh Mahar,]

All resident of village Bin,
District. Pithoragarh.]…Petitioners.

Vs

1. State of U.P.]
2. Collector, Pithoragarh]
3. Land Acquisition Officer, Pithoragarh]..Respondents.

Sri V.B.S. Negi, counsel on behalf of the Petitioners,
Learned Chief Standing Counsel for the Respondents

Coram: **Hon'ble S.H. Kapadia, C.J.,**
Hon'ble. Rajesh Tondon, J.

Dated: 25th day of August, 2003

ORAL JUDGMENT: [Per Chief Justice]

1. By this writ petition, petitioners have challenged application of Section 17 of the Land Acquisition Act by State Govt. of Uttar Pradesh, on the ground that there was no urgency for the Government to invoke that Section.

2. On 8th December 1988 notification was issued under Section 4 of the Land Acquisition Act acquiring several plots of land in village Bin, District Pithoragarh for construction of houses for irrigation Department. The notification was published in the daily news paper in the State of U.P. On 16th April 1990. Notifications was issued under Section 6 of the Land Acquisition Act. This notification was published in the daily news paper 'Amar Ujala'. While issuing the said Notification under Section 6, the Government also applied Section 17 of the Land Acquisition Act. It is the case of the

petitioners that these was no urgency to invoke Section 17 (1) of the Act. On this ground, the petitioners have challenged the acquisition. The petitioners have also challenged the acquisition on the ground that no notice under Section 9(1) of the Land Acquisition was given to the petitioners.

3. This petition was filed in the Allahabad High Court on 12th November 1990. This petition has been transferred from Allahabad High Court to this High Court. The land under acquisition, has been taken from several persons. Only the Petitioners have come before this Court 80% of the total compensation has been paid to the land holders. By counter affidavit, it is pointed out, that notification under Section 6(1) of the Land Acquisition dated 16th April 1990 was published in the daily news papers on 14th July 1990 and 17th July 1990. That, notices under Section 9(1) were also issued on 19th May 1990. That, notification under 4(1) was published in the daily news paper also. That, notification under section 4(1) was published in the daily news paper on 17 June 1989 and within one year, the notification under section 6 of the Act was issued on 16th April 1990. It is further pointed out that the lands were urgently required for construction of houses for Irrigation Department.

4. For the aforestated reasons we do not see any reason to interfere under Article 226 of the Constitution. Hence, writ petition is rejected. Interim order dated 5th December 1990, passed by the Allahabd High Court , is hereby vacated.

(Rajesh Tondon. J.) (**S.H. Kapadia, C.J.)**

Melkani: